

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
2440 Tulare St., Ste. 320
Fresno, CA 93721
Telephone: 559-439-9700
Facsimile: 559-439-9723
Email: info@jonathanpena.com
Attorney for Plaintiff, Leon DeLeon

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Leon DeLeon,

Case No. 1:23-cv-00585-SKO

Plaintiff,

**STIPULATION AND UNOPPOSED
MOTION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES
AND EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
ORDER**

Defendant

(Doc. 14)

Kilolo Kijakazi, Acting
Commissioner of Social Security,

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SEVEN HUNDRED FIFTY-TWO DOLLARS AND 61/100 (\$752.61) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered and made payable to Plaintiff's counsel, Jonathan O. Peña.

Plaintiff's net worth did not exceed \$2,000,000.00 when this action was filed.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: September 6, 2023

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

1 Dated: September 6, 2023

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Office of Program Litigation
Social Security Administration

5 By: * Heidi Triesch
6 Heidi Triesch
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
obtained via email on September 6, 2023).

10 **ORDER**

11 Based upon the parties' Stipulation and Unopposed Motion for the Award and
12 Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation") (Doc. 14),

13 **IT IS ORDERED** that fees and expenses in the amount of SEVEN HUNDRED
14 FIFTY-TWO DOLLARS AND 61/100 (\$752.61) as authorized by the Equal Access to
15 Justice Act (EAJA), 28 U.S.C. § 2412(d) and costs in the amount of ZERO dollars (\$0.00)
16 under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

17
18 IT IS SO ORDERED.
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21 Dated: September 7, 2023

/s/ Sheila K. Oberto
22 UNITED STATES MAGISTRATE JUDGE